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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,972	02/01/2006	Ian Anderson	8000940 (LBT124US)	6290

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11/20/2009

EXAMINER

MCCALISTER, WILLIAM M

ART UNIT	PAPER NUMBER
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3753

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,972

Applicant(s)

ANDERSON ET AL.

Examiner

WILLIAM MCCALISTER

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-105 is/are pending in the application.
- 4a) Of the above claim(s) 28-104 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-4 have been cancelled. Claims 28-104 have been withdrawn. Claims 5-27 and 105 are pending for immediate consideration.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5-27 and 105 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independent claims recite a plurality of distinct steps, including an evacuation step of "evacuating the container of air located between the container and the bag prior to;". Prior to what, exactly? None of the other steps are subordinated to the evacuation step in any manner: all steps are followed by a semi-colon, all steps exhibit an identical form of indentation, and none refer back to the evacuation step. Did Applicant mean to use a colon, rather a semi-colon after the phrase "prior to"? If so, which of the several steps that follow the evacuation step would this have required the evacuation step to occur "prior to"? All of the steps that follow, or just one?

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 5-27 and 105 as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambrechts (EP 0 389 191 A1) in view of Sonoco (GB 2 210 865 A) and Sieger (DE 39 22 779 A1)

Regarding claims 5-8, 11-16 and 19, Lambrechts discloses a method of filling and dispensing beer from a bag (20) contained in and supported by a keg (10), the method comprising the steps of:

evacuating the keg of air located between the keg and the bag (see col. 5 lines 6-14) *prior to* (as understood, each step occurs before every other step because Lambrechts' device is used repeatedly);

filling the inflated bag with beer (col. 4 lines 25-32); and

applying a gas under pressure into the keg against the bag during beer dispensing to facilitate dispensing of beer from the bag (see col. 4 lines 36-55).

Lambrechts does not disclose the step of pre-inflating the bag by blowing with CO₂ prior to filling the bag with beer. Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate such a bag by blowing with

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CO₂ (see written description p. 1 ¶ 2). To avoid spoilage of the beer contained in Lambrechts' device, it would have been obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag by blowing with CO₂, as taught by Sonoco.

Lambrechts does not disclose the step of venting the CO₂ from the bag during the step of filling the bag with beer. However, Sieger teaches that it was known in the art at the time of invention to vent gas from an inflated bag during the step of filling the inflated bag with a beverage (see FIG 2). To allow the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to one of ordinary skill in the art at the time of invention to vent the CO₂ from the bag during the step of filling the inflated bag with beer, as taught by Sieger.

Regarding claims 9, 10, 17 and 18, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – "It may then be inflated ... until it is in intimate contact with the casing").

Regarding claims 20-24 and 27, Lambrechts discloses a method of filling an alcohol beverage into a bag contained in and supported by a beer keg having a valve system mounted with the bag and keg, the method comprising the step of:

filling the bag with beer through a second valve (generally 33; note that a valve is anything that controls the flow of fluid through a conduit).

Lambrechts does not disclose the step of inflating the bag with CO₂ prior to filling the bag with beer. Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate a similar bag with carbon dioxide using a second valve (16, which is also used to fill the bag with beer). To avoid spoilage of the beer held by Lambrechts' device, it would have obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag with CO₂ through the second valve, as taught by Sonoco.

Lambrechts also discloses a first valve (generally 34) capable of exhausting gas from a space between the keg and the bag, but does not disclose the step of applying a vacuum thereto *prior to*. However, it was common knowledge that positive pressure acting in one direction has the same effect as negative pressure acting in the opposite direction. Therefore, it would have been obvious to one of ordinary skill in the art to inflate Lambrechts' bag with CO₂ by attaching a vacuum to the first valve *prior to* (as understood, each step occurs before every other step because the device would be used repeatedly), for instance where the supply pressure of CO₂ is running low. As such, the CO₂ would be "blown through" the second valve, since "blowing" refers broadly to a transfer of gas caused by a difference in pressure.

Lambrechts nor Sonoco discloses the step of venting CO₂ from the bag. However, Sieger teaches that it was known in the art at the time of invention to vent an inert gas through a third valve (10, which is separate from the valve used to supply

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beer) from an inflatable bag during the step of filling the inflated bag with a beverage (as shown at FIG 2). To allow the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to one of ordinary skill in the art at the time of invention to vent the CO₂ from Lambrechts' bag through a third valve, as taught by Sieger.

Regarding claims 25 and 26, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – "It may then be inflated ... until it is in intimate contact with the casing").

Regarding claim 105, Lambrechts discloses the step of evacuating the keg of air located between the keg and the bag to occur prior to inflating the bag with CO₂. (See col. 5 lines 5-9; the steps are cyclical.)

5. Claims 20-27 as understood are also rejected under 35 U.S.C. 103(a) as being unpatentable over Lambrechts in view of Sonoco, Sieger and Pitts (3,527,021).

Regarding claims 20-24 and 27, Lambrechts discloses a method of filling an alcohol beverage into a bag contained in and supported by a beer keg having a valve system mounted with the bag and keg, the method comprising the step of:

filling the bag with beer through a second valve (generally 33).

Lambrechts does not disclose the step of inflating the bag by blowing with CO₂. Sonoco teaches that to avoid the spoilage of beer, it was known in the art at the time of invention to pre-inflate a similar bag with CO₂ using a second valve (16, which is also used to fill the bag with beer). To avoid spoilage of the beer held by Lambrechts' device, it would have been obvious to one of ordinary skill in the art to pre-inflate Lambrechts' bag with CO₂ through the second valve, as taught by Sonoco.

Lambrechts also discloses a first valve (34) capable of exhausting gas from a space between the keg and the bag, but does not disclose the step of applying a vacuum to the first valve *prior to*. Pitts teaches that it was known to inflate a bag by creating a state of vacuum on the exterior thereof. It would have been obvious to one of ordinary skill in the art to inflate Lambrechts' bag with CO₂ by attaching a vacuum to the first valve, for instance where the supply pressure of CO₂ is running low. As such, the CO₂ would be "blown through" the second valve, since "blowing" refers broadly to a transfer of gas caused by a difference in pressure. (As understood, each step occurs "prior to" every other step because the device would be used repeatedly.)

Lambrechts does not disclose the step of venting CO₂ from the bag. Sieger teaches that it was known in the art at the time of invention to vent a gas through a third valve (10, which is separate from the valve used to supply beer) from an inflatable bag during the step of filling the inflated bag with a beverage (as shown at FIG 2). To allow

the full volume of Lambrechts' bag to be utilized for the storage of beer, it would have been obvious to one of ordinary skill in the art at the time of invention to vent the CO₂ from Lambrechts' bag through a third valve, as taught by Sieger.

Regarding claims 25 and 26, Sonoco teaches inflating the bag to a volume corresponding to that of the container, so that the bag is in contact with the inside walls of the container (see written description page 1 paragraph 2 – "It may then be inflated ... until it is in intimate contact with the casing").

Response to Arguments

6. Applicants' arguments filed 9/21/2009 have been fully considered but they are not persuasive. In response to the arguments that the references fail to teach certain aspects of Applicant's invention, it is noted that the features upon which Applicant relies ("inflating the bag with beer" (Remarks, p. 23 line 4), creating a pressure differential of greater than one atmosphere (p. 23, lines 10-13), and "evacuat[ing] the air from between the container and the bag prior to inflating the bag by blowing with an inert gas" (p. 23-25)) are not recited in the rejected claim(s). (Moreover, note that each prior art step occurs before every other step because the process is performed repeatedly.) Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Douglas discloses the step of evacuating a similar container of air before any other filling or dispensing steps are performed (col. 4 lines 5-9).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM MCCALISTER whose telephone number is (571)270-1869. The examiner can normally be reached on Monday through Friday, 9-7.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM MCCALISTER/
Examiner, Art Unit 3753

/Timothy L Maust/
Primary Examiner, Art Unit 3751

WM
11/10/2009